

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NATIONAL PRODUCTS, INC.,

Plaintiff,

v.

GAMBER-JOHNSON LLC,

Defendant.

Civil Case No. CV08-0049-JLR

**[PROPOSED] SUPPLEMENTAL
DECLARATION OF MARK P.
WALTERS IN OPPOSITION TO
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT**

**Note on Motion Calendar:
Friday, February 12, 2010**

ORAL ARGUMENT REQUESTED

1 I, Mark P. Walters, hereby state and declare as follows:

2 1. I am an attorney representing National Products, Inc. ("NPI"), and I make the
3 following statements based on personal knowledge. If called to testify regarding matters set
4 forth herein I am competent and willing to do so.

5 2. NPI was only recently able to obtain deposition testimony from three
6 witnesses with relevant information in support of NPI's claims for relief in this matter.
7 These witnesses are Jim Vercruyssen, Howard Pace, and Richard Gardner.

8 3. These witnesses were employed by a company called General
9 Dynamics/Itronix in 2007 and 2008. ("GDI") GDI designs and sells rugged laptop
10 computers.

11 4. Jim Vercruyssen is no longer employed by GDI, and his testimony was
12 obtained in response to a subpoena served on him in his individual capacity. The
13 Vercruyssen subpoena was signed on December 29, 2009 and served on December 30,
14 2009. NPI updated its initial disclosures, naming Mr. Vercruyssen as a potential witness on
15 November 6, 2009.

16 5. I first met with Mr. Vercruyssen on or around December 12, 2009 and at that
17 time, I requested testimony from him in opposition to Gamber's motion for summary
18 judgment. Due to his schedule and the intervening Christmas and New Years Holidays, Mr.
19 Vercruyssen was not able to appear for a deposition until January 11, 2010.

20 6. Witnesses Howard Pace and Richard Gardner are currently employed by GDI
21 and they appeared in response to an NPI subpoena served on or around November 6, 2009.
22 The soonest either witness was offered to appear for deposition by GDI was January 13,
23 2009.
24

7. Attached as Exhibit A to my declaration are true and correct excerpts from the transcript of the deposition of Jim Vercruyssen, taken on January 11, 2010 in Spokane, Washington.

8. Attached as Exhibit B to my declaration are true and correct excerpts from the rough draft of the transcript of the deposition of General Dynamics/Itronix taken on January 13, 2010 in Chicago, Illinois with witness Howard Pace as the corporate designee under Fed. R. Civ. P. 30(b)(6). This exhibit is being FILED UNDER SEAL pursuant to the terms of the stipulated protective order.

9. Attached as Exhibit C to my declaration are true and correct excerpts from the rough draft of the transcript of the deposition of General Dynamics/Itronix taken on January 13, 2010 in Chicago, Illinois with witness Richard Gardner as the corporate designee under Fed. R. Civ. P. 30(b)(6). This exhibit is being FILED UNDER SEAL pursuant to the terms of the stipulated protective order.

I make these statements under penalty of perjury and hereby swear that the foregoing is true and correct to the best of my recollection.

Executed in Seattle, Washington on January 26, 2010.

s/ Mark P. Walters
Mark P. Walters

CERTIFICATE OF SERVICE

I, Marlon R. Muñoz, hereby certify that on January 26, 2010, I caused the foregoing
[PROPOSED] SUPPLEMENTAL DECLARATION OF MARK P. WALTERS IN
OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT to be
served on the following parties as indicated below:

Mark S. Parris ORRICK HERRINGTON & SUTCLIFFE LLP 701 Fifth Avenue, Ste. 5700 Seattle, WA 98104-7097 <i>Attorneys for Defendant Gamber-Johnson LLC</i>	<input type="checkbox"/> By United States Mail <input type="checkbox"/> By Legal Messenger <input checked="" type="checkbox"/> By Electronic CM/ECF <input type="checkbox"/> By Overnight Express Mail <input type="checkbox"/> By Facsimile <input type="checkbox"/> By Email [by agreement of counsel] mparris@orrick.com
Jonathan D. Jay Nicholas S. Kuhlmann Terrance C. Newby LEFFERT JAY & POLGLAZE, P.A. 150 South Fifth Street, Suite 1900 Minneapolis, MN 55402 <i>Attorneys for Defendant Gamber-Johnson LLC</i>	<input type="checkbox"/> By United States Mail <input type="checkbox"/> By Legal Messenger <input checked="" type="checkbox"/> By Electronic CM/ECF <input type="checkbox"/> By Overnight Express Mail <input type="checkbox"/> By Facsimile <input type="checkbox"/> By Email [by agreement of counsel] jjay@ljp-iplaw.com nkuhlmann@ljp-iplaw.com tnewby@ljp-iplaw.com

DATED: January 26, 2010

s/ Marlon R. Muñoz
for David K. Tellekson, WSBA No. 33523
Robert L. Jacobson, WSBA No. 30838
Mark P. Walters, WSBA No. 30819
DARBY & DARBY P.C.